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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/133,059	10/12/93	SEEBACHER	R 233808419

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3SM1/1110

EXAMINER: PITTS

ART UNIT	PAPER NUMBER
3502	4

DATE MAILED: 11/10/94

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☐ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire — month(s), 30 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. ☐ Notice of References Cited by Examiner, PTO-892.
2. ☑ Notice of Draftsman's Patent Drawing Review, PTO-948.
3. ☐ Notice of Art Cited by Applicant, PTO-1449.
4. ☐ Notice of Informal Patent Application, PTO-152.
5. ☐ Information on How to Effect Drawing Changes, PTO-1474..
6. ☐ _____.

Part II SUMMARY OF ACTION

1. ☐ Claims _____ are pending in the application.

   Of the above, claims _____ are withdrawn from consideration.

2. ☐ Claims _____ have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☐ Claims _____ are rejected.
5. ☐ Claims _____ are objected to.
6. ☑ Claims 1-68 are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____. has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).
12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.
13. ☐ Since this application apppears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

EXAMINER'S ACTION

PTOL-326 (Rev. 2/93)

Part III DETAILED ACTION

Election/Restriction

Claims 20, 23, 28, 31-35 and 48-68 are withdrawn from further consideration by the examiner, 37 C.F.R. § 1.142(b) as being drawn to a nonelected species. Election was made **without** traverse in Paper No. 5.

Specification

The following is a quotation of the first paragraph of 35 U.S.C. § 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Change to 112 2nd P re support in spec for "Fottinger coupling"

The specification is objected to under 35 U.S.C. § 112, first paragraph, as failing to provide an adequately written description of the invention.

There is no discussion of a "Fottinger coupling" as set forth in claim 3, therefore, the disclosure is incomplete and renders claim 3 unsupported by the specification.

Claim Rejections - 35 USC § 112

Claim 3 is rejected under 35 U.S.C. § 112, first paragraph, for the reasons set forth in the objection to the specification.

Claim 40 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 40, lines 2 to 3, "the extent of movability" does not have proper antecedent basis.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-8, 18, 19, 21, 22-27, 29, 30, 36-47 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Japanese Patent 54-145860.

The Japanese Patent '860 disclose all of the elements as set forth in applicant's claims. Please note the carrier (hub) 26 which contains stressing means 26, 27, 28 that are connected to the runner 10 for movement therewith. The stressing means are indirectly mounted on the output element 12 via turbine runner shell 10.

Claims 1-8, 11-17, 22 and 25 are rejected under 35 U.S.C. § 102(e) as being clearly anticipated by Friedmann et al. 5,377,796.

Friedmann et al. discloses all of the elements as set forth in applicant's claims. Please note the wear resistance member 23. The torsion damping spring 20 is preformed into a curved shape and extends along an arc of between 90° and 175°.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

> A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
>
> Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103, the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 C.F.R. § 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. § 102(f) or (g) prior art under 35 U.S.C. § 103.

Claims 9 and 10 are rejected under 35 U.S.C. § 103 as being unpatentable over Friedmann et al. 5,377,796.

Friedmann et al. discloses all of the limitations as set forth in applicant's claims as noted in the rejection under 35 USC 102(e) except there is no indication of the spring gradient of the preformed curved spring 20. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to determine the optimum range of the spring gradient, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller,* 105 USPQ 233.

Claim 41 is rejected under 35 U.S.C. § 103 as being unpatentable over Japanese Patent 54-145860.

The Japanese Patent discloses all of the elements as set forth in applicant's claims as noted in the rejection under 35 USC 102(b) except for the intermediate member containing a plastic material. However, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to make the intermediate member out of a material which contains plastic, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of design choice. *In re Leshin,* 125 USPQ 416.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Blomquist 4,240,532; Macdonald et al. 4,867,290; Billet et al. 4,722,715; Fujimoto 4,969,544 and 5,224,576; Forster et al. 5,080,215 and Kohno et al. 5,203,835 all disclose torque transmitting devices having similar characteristics as in applicant's present invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea Pitts whose telephone number is (703) 308-68.

Andrea Pitts
Primary Examiner
Art Unit 3502

Pitts/alp
February 3, 1995